

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5439 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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FULNATH STONES INDUSTRIES

Versus

GUJARAT ELECTRICITY BOARD

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Appearance:

MR JA ADESHRA for Petitioner

MR TUSHAR MEHTA for Respondents.

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 15/10/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. Mehta, learned advocate appearing for the respondents. Heard. The petitioner has challenged the decision of the appellate committee rendered on 25th March, 1998 and subsequent notice dated 30th May, 1998 issued by the third respondent in this petition.

2. It is contended by the petitioner that the

appellate committee has not afforded reasonable opportunity of hearing to the petitioner before passing the final order. The petitioner submits that they have not committed any theft of electricity. As per the visit report of the Junior Engineer of the G.E.Board Mr. Patel made on 27th September, 1995, it was found that the seal of the iron box in which the meter was installed and the seals of the meter were found in tact. The laboratory testing was resorted to after inordinate delay and the report of the laboratory was given after one year and eight months. Junior Engineer Mr. B.M.Patel stated before the appellate committee that the meter was burnt in his presence when he tried to charge the meter and that all the seals were in tact when he checked the same on 27th September, 1995. It has been submitted that all the contentions of the petitioners are required to be taken into consideration. The petitioners approached the appellate committee and wanted to agitate all these contentions before the appellate committee. It is submitted that the petitioner did not have opportunity of making these submissions before the appellate committee.

2. The aforesaid stand of the petitioner as submitted by the learned advocate for the petitioner has been denied by the respondent Board. However, it would appear that the aforesaid contentions of the petitioner might go at the root of the matter. At this stage, it might be noted that the petitioner has deposited thirty percent of the amount of the disputed bill and that fact is not disputed by the other side. Besides, without prejudice to the rights and contentions of the petitioner, the petitioner agrees to deposit the balance amount of 50% of Rs. 93,137.21 ps. and the regular bills upto June, 1998 which comes to Rs. 54,631.59, as per the following particulars:

Amount towards Amount of regular Particulars  
50% balance bill upto June, 98  
amount of  
disputed bill.

Rs.25000 Rs.5464/- within 2 days from today  
Rs.17035/- Rs.5464/- On or before 10.12.98  
Rs.17035/- Rs.5464/- On or before 10.1.1999  
Rs.17035/- Rs.5464/- On or before 10.2.1999  
Rs.17035/- Rs.5464/- On or before 10.3.1999  
Rs.5464/- On or before 10.4.1999  
Rs.5464/- On or before 10.5.1999  
Rs.5464/- On or before 10.6.1999  
Rs.5464/- On or before 10.7.1999

Rs.5464/- On or before 10.8.1999

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Rs.93,140/-

Hence, in the facts and circumstances of the case and bearing in mind the fact that the manufacturing activities of the petitioner unit are alleged to have remained closed on account of the disconnection of power supply by the respondent Board resulting in financial crisis to the petitioner industry, following direction is required to be issued:

Under the aforesaid circumstances, on the petitioner's depositing an amount of Rs. 25,000/- (Rs. twenty five thousand only) plus Rs. 5,464/- (Rs. five thousand four hundred sixty four only) totalling to Rs. 30,464/- (Rs. thirty thousand four hundred sixty four only) within two days from today, the Respondent Board is directed to restore/reconnect the power supply to the petitioner unit. The petitioner shall make payment of subsequent bills regularly every month over and above the aforesaid payments by instalments. The partner of the petitioner concern will file an undertaking before this court within two days from today to the effect that the instalments as aforesaid shall be paid. The matter will accordingly stand remanded before the appellate committee and the appellate committee shall decide the same as expeditiously as possible, in accordance with law after affording an opportunity of hearing to the petitioner. Rule is made absolute only in the aforesaid terms with no order as to cost.

15.10.1998. (M.S.Parikh,J.)